



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES

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October 31, 2008

Steven James
Clerk of the House of Representatives
State House, Room 145
Boston, MA 02133

William Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Honorable Clerks:

I submit to you the feasibility study required by Section 105 of Chapter 169 of the Acts of 2008.

This section directed the Department of Energy Resources to assess the feasibility of implementing two of its subsections. The first, subsection (c) would be to require generators to commit their capacity to the New England control area for the applicable annual period. The second, subsection (e) would be to prevent "greenwashing" or "roundtripping" whereby renewable energy and Renewable Energy Certificates (RECs) are sold into Massachusetts, but a similar amount of energy is exported to another control area, effectively resulting in no net gain of green power. The subsection would require that DOER "net" any RECs issued for that renewable power by any exports of energy by the entity seeking the REC, an affiliate, or a contracted party.

Our discussion of these issues and ultimate conclusions and recommendations are contained in the enclosed report prepared by the Department. In short, we conclude that while it is not feasible to implement Section 105 as drafted, we do believe it is possible to achieve, through modest changes in Renewable Portfolio Standard (RPS) regulations, the legislative intent of Section 105 - namely, to ensure that renewable power facilities which send their renewable energy into New England and receive a subsidy from Massachusetts ratepayers in the form of RECs also make themselves available as capacity resources; and also to guard against any "gaming" of the RPS system by swapping imported renewable energy for exports of non-green energy generated from here.



To that end, the Department intends to revise its regulations to prohibit any resource which receives Massachusetts RECs to participate in any capacity markets other than New England's capacity market. Further, new non-intermittent generators (those with capacity factors of 50 percent or greater) will be required to commit their capacity through participation in the Forward Capacity Market (FCM) in order to qualify for Massachusetts RECs. Intermittent generators (those with capacity factors of less than 50 percent), on the other hand will not be required to participate in the FCM. Finally, the Department will require RPS participants to self-attest that they will not engage in "greenwashing" themselves or through any affiliate or other contracted party, and reserve the right to initiate an investigation if the Department comes into possession of credible information that such a participant may be engaging in this prohibited practice.

To place the feasibility study and its recommendations in context, Chapter 169 created important new incentives for the development of in-state renewable power generation. These include "net metering," which will provide more favorable economics for wind and solar generation owned by homeowners and businesses, and a pilot program of long-term contracts between electric utilities and renewable energy developers, which will help developers obtain financing to build their projects. At the same time that these provisions encourage in-state renewables, RPS rules on the importation of renewable energy, as revised according to the feasibility study, will maintain the flow of renewable energy into Massachusetts from adjacent areas, at the same time ensuring that the generating capacity of renewable generators serving the New England power market count toward meeting our capacity needs, thereby reducing the need for additional fossil-fuel power plants. And while we continue to welcome imports as an important component of meeting our RPS requirements, we remain concerned about the cost of transmission for renewable energy from remote locations, and the prospect of Massachusetts ratepayers being unfairly burdened with these costs. We will continue to work with our neighbor states and provinces to ensure that these transmission costs be treated in the context of our ongoing commitment to maintaining a competitive wholesale power market.

Thank you for the acceptance of this report, and in addition, I have also enclosed a copy of a technical report we commissioned from LaCapra Associates on this issue.

Regards,



PHILIP GIUDICE
Commissioner

cc: Senator Michael Morrissey
Senate Chair of the Joint Committee on Telecommunication, Utilities, and Energy

Representative Brian Dempsey
House of the Joint Committee on Telecommunication, Utilities, and Energy